
By: **Senators Pinsky, Conway, Grosfeld, Jimeno, Kelley, Ruben, and Stone**
Introduced and read first time: January 31, 2003
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel - Collective Bargaining - Service Fees and Binding**
3 **Arbitration**

4 FOR the purpose of authorizing collective bargaining to include the rights of an
5 employee organization to receive service fees from nonmembers; providing that
6 a grievance is subject to binding arbitration; requiring that binding arbitration
7 be conducted if requested by a certain appointing authority or exclusive
8 representative; prescribing the method for selecting an arbitrator; establishing
9 the powers and duties of an arbitrator; providing for the payment of the cost of
10 arbitration; defining a certain term; and generally relating to service fees and
11 binding arbitration.

12 BY repealing and reenacting, with amendments,
13 Article - State Personnel and Pensions
14 Section 3-502
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 2002 Supplement)

17 BY adding to
18 Article - State Personnel and Pensions
19 Section 3-701 through 3-707, inclusive, to be under the new subtitle "Subtitle 7.
20 Binding Arbitration"
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 2002 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - State Personnel and Pensions**

26 3-502.

27 (a) Collective bargaining shall include all matters relating to wages, hours,
28 and other terms and conditions of employment.

1 (b) Collective bargaining may [not] include negotiations relating to the right
2 of an employee organization to receive service fees from nonmembers.

3 (c) Notwithstanding subsection (a) of this section, the representatives of the
4 State, a system institution, Morgan State University, St. Mary's College of Maryland,
5 and Baltimore City Community College:

6 (1) shall not be required to negotiate over any matter that is inconsistent
7 with applicable law; and

8 (2) may negotiate and reach agreement with regard to any such matter
9 only if it is understood that the agreement with respect to such matter cannot become
10 effective unless the applicable law is amended by the General Assembly.

11 SUBTITLE 7. BINDING ARBITRATION.

12 3-701.

13 IN THIS SUBTITLE, "GRIEVANCE" MEANS A DISPUTE REGARDING:

14 (1) THE INTERPRETATION OR APPLICATION OF THE TERMS OF A
15 MEMORANDUM OF UNDERSTANDING NEGOTIATED AND RATIFIED UNDER THIS
16 TITLE;

17 (2) AN ALLEGED VIOLATION, MISINTERPRETATION, OR MISAPPLICATION
18 OF AN APPOINTING AUTHORITY'S RULES OR REGULATIONS REGARDING A TERM OR
19 CONDITION OF EMPLOYMENT; OR

20 (3) AN ALLEGED BREACH OR VIOLATION OF A PROVISION OF DIVISION I
21 OF THIS ARTICLE.

22 3-702.

23 (A) A GRIEVANCE THAT ARISES IN A BARGAINING UNIT WITH AN EXCLUSIVE
24 REPRESENTATIVE IS SUBJECT TO BINDING ARBITRATION BEFORE A NEUTRAL
25 ARBITRATOR.

26 (B) BINDING ARBITRATION SHALL BE CONDUCTED IF REQUESTED BY THE
27 APPOINTING AUTHORITY OR THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING
28 UNIT IN WHICH THE GRIEVANCE AROSE.

29 3-703.

30 THE APPOINTING AUTHORITY AND THE EXCLUSIVE REPRESENTATIVE SHALL
31 SELECT AN ARBITRATOR BY MUTUAL AGREEMENT OR BY ALTERNATING STRIKES
32 FROM A LIST THAT:

33 (1) IS PROVIDED BY THE FEDERAL MEDIATION AND CONCILIATION
34 SERVICE; AND

1 (2) CONSISTS OF NINE LABOR ARBITRATORS WHO ARE MEMBERS OF
2 THE NATIONAL ACADEMY OF ARBITRATORS.

3 3-704.

4 (A) AN ARBITRATOR SELECTED UNDER § 3-703 OF THIS SUBTITLE MAY:

5 (1) CONVENE AND CONDUCT AN EVIDENTIARY HEARING;

6 (2) ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES
7 AND THE PRODUCTION OF DOCUMENTS AND OTHER TANGIBLE EVIDENCE;

8 (3) HEAR EVIDENCE AND RULE ON THE ADMISSIBILITY OF EVIDENCE;

9 (4) DETERMINE WHICH ISSUES ARE IN DISPUTE; AND

10 (5) ISSUE A FINAL, BINDING RULING ON THE GRIEVANCE.

11 (B) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS
12 SECTION OR FAILS TO TESTIFY ON A MATTER ON WHICH THE PERSON LAWFULLY
13 MAY BE INTERROGATED, ON PETITION OF THE ARBITRATOR, A COURT MAY:

14 (1) PASS AN ORDER DIRECTING COMPLIANCE WITH THE SUBPOENA OR
15 COMPELLING TESTIMONY; AND

16 (2) ENFORCE THE ORDER BY PROCEEDINGS OF CONTEMPT.

17 3-705.

18 AN ARBITRATOR SHALL DELIVER A COPY OF A RULING AND A WRITTEN
19 STATEMENT THAT EXPLAINS THE REASONS FOR THE RULING TO THE EXCLUSIVE
20 REPRESENTATIVE AND THE APPOINTING AUTHORITY.

21 3-706.

22 THE COSTS OF BINDING ARBITRATION, INCLUDING AN ARBITRATOR'S FEES AND
23 OTHER COSTS RELATED TO A HEARING, CONDUCTED UNDER THIS SUBTITLE SHALL
24 BE PAID EQUALLY BY THE APPOINTING AUTHORITY AND THE EXCLUSIVE
25 REPRESENTATIVE.

26 3-707.

27 A GRIEVANCE PRESENTED TO AN ARBITRATOR FOR BINDING ARBITRATION
28 UNDER THIS SUBTITLE MAY NOT BE PRESENTED UNDER TITLE 12 OF THIS ARTICLE.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2003.